GOVERNMENT OF INDIA
COMMERCE AND INDUSTRY
LOK SABHA

STARRED QUESTION NO:85
ANSWERED ON:23.11.2001
PATENT OF INDIAN PLANTS BY MNCS
DR. KIRIT SOMAIYA;YOGI ADITYANATH

Will the Minister of COMMERCE AND INDUSTRY be pleased to state:

(a) whether some developed countries and multinationals have got patent of various Indian herbs and medicinal plants;

(b) if so, the details of the facts in this regard; and

(c) the action taken by the Government to save the Indian claim on those herbs and medicinal plants which are being patented by the foreign countries?

Answer

THE MINISTER OF STATE IN THE MINISTRY OF COMMERCE AND INDUSTRY (DR. RAMAN SINGH)

(a) to (c): A statement is laid on the Table of the House.

STATEMENT REFERRED TO IN REPLY TO LOK SABHA STARRED QUESTION NO. 85 FOR ANSWER ON 23.11.2001 REGARDING PATENT OF INDIAN PLANTS BY MNCs

(a): Herbs and medicinal plants, existing in nature, would not meet the criteria of patentability, namely, novelty, inventiveness and industrial applicability. However, patents have reportedly been granted on compositions based on properties of certain herbs/medicinal plants.
(b) and (c): No such information is maintained as patents are granted under the sovereign prerogative of countries according to their respective patent laws and have territorial effect, that is, they are effective only in the country of grant.

As and when information is received about patents being obtained on certain items which are not considered patentable and which affect Indian interests, steps are taken to assess whether the grant of such patents can be challenged under the patent laws of the country concerned. Thus, a patent granted in the United States of America on the use of turmeric for wound healing was challenged and the said patent was cancelled. A patent is normally challenged by the person(s) whose interests are affected/jeopardised.

In order to protect bio-resources, the Patents (Second Amendment) Bill,1999, contains provisions for mandatory disclosure of source and geographical origin of the biological material used in the invention while applying for patents in India. Provisions have also been incorporated to include the non-disclosure or wrongful disclosure of the same as grounds for opposition and for revocation of the patent, if granted. Provisions in this regard are contained in clauses 8, 17 and 28 of the said Bill.

In order to protect traditional knowledge from being patented, provisions have been incorporated in the Patents (Second Amendment) Bill, 1999, to include anticipation of invention by available local knowledge, including oral knowledge, as one of the grounds for opposition as also for revocation of patent. Provisions in this regard are contained in clauses 17 and 28 of the said Bill.

Apart from this, Government has also undertaken the development of a digital database of traditional knowledge in the field of medicinal plants to prevent patenting of products based on such knowledge.